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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/129,113      | 08/04/1998  | JAMES F. CAMERON     | 50349               | 4003             |

7590 12/02/2002

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| EXAMINER |
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| ART UNIT | PAPER NUMBER |
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This application was filed on August 4, 1998. On November 27, 2000 a first request for a Continued Prosecution Application (CPA) was filed. A rejection was mailed to applicants on February 8, 2001 and a Notice of Appeal was filed on August 13, 2001. A second request for CPA was filed on March 8, 2002. A final rejection was mailed to applicants on May 6, 2002. The final rejection of May 6, 2002 is hereby vacated because the second CPA request was improper.

37 CFR 1.53(d)(1) was amended to provide that the prior application of a CPA must be: (1) a utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, (2) a design application, or (3) the national stage of an international application that was filed under 35 U.S.C. 363 before May 29, 2000. See Changes to Application Examination and Provisional Application Practice, interim rule, 65 Fed. Reg. 14865, 14872 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 52 (Apr. 11, 2000). Since a CPA of this application is not permitted under 37 CFR 1.53(d)(1), the improper request for a CPA is being treated as a request for continued examination of this application under 37 CFR 1.114. See id. at 14866, 1233 Off. Gaz. Pat. Office at 48.

A request for continued examination under 37 CFR 1.114 was filed in this application on March 8, 2002, after appeal to the Board of Patent Appeals and Interferences. Therefore, the appeal has been withdrawn pursuant to 37 CFR 1.114. The request, however, lacks the fee required by 37 CFR 1.17(e) and/or the submission required by 37 CFR 1.114. Since the proceedings as to the rejected claims are considered terminated, and no claim is allowed, the application is abandoned. See MPEP 1215.01.

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